

Office Action Summary

Application No.

10/602,392

Applicant(s)

NIELSEN ET AL.

Examiner

Marina Lamm

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1616

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --
Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 07 December 2004.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-20 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-20 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☒ All b) ☐ Some * c) ☐ None of:
1. ☒ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. _____.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- * See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- 1) ☐ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☒ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date 1/31/05; 12/16/04.
- 4) ☐ Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____.
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other: _____.

DETAILED ACTION

Acknowledgment is made of the response filed 12/7/04. Claims pending are 1-20.

Priority

1. Receipt is acknowledged of papers submitted under 35 U.S.C. 119(a)-(d), which papers have been placed of record in the file.
2. Acknowledgment is made of the translation of the foreign priority document filed 12/7/04.

Terminal Disclaimer

3. The terminal disclaimer filed on 12/7/04 disclaiming the terminal portion of any patent granted on this application which would extend beyond the expiration date of US Patent No. 6,620,420 and any patent granted on US Application SN 10/025,065 has been reviewed and is accepted. The terminal disclaimer has been recorded.

Claim Rejections - 35 USC § 102

4. The text of those sections of Title 35, U.S. Code not included in this action can be found in a prior Office action.
5. The rejection of Claims 1-6, 8-10, 16 and 17 under 35 U.S.C. 102(e) as being anticipated by Loffler (US 2001/0005737 or 6,489,395) is maintained for the reasons of the record.

Claim Rejections - 35 USC § 103

6. The text of those sections of Title 35, U.S. Code not included in this action can be found in a prior Office action.
7. The rejection of Claims 11 and 13-15 under 35 U.S.C. 103(a) as being unpatentable over Loffler (US 2001/0005737 or 6,489,395) is maintained for the reasons of the record.
8. The rejection of Claims 7, 12 and 18-20 under 35 U.S.C. 103(a) as being unpatentable over Loffler (US 2001/0005737 or 6,489,395) in view of Röckl et al. (US 5,690,919) is maintained for the reasons of the record.

Response to Arguments

9. The rejection of Claims 1-20 under 35 U.S.C. 102(e) over Lanzendörfer et al. (US 6,620,420) has been overcome by perfecting foreign priority.
10. The provisional rejection of Claims 1-20 under 35 U.S.C. 102(e) over the copending Application No. 10/025,065 having a common inventor with the instant application has been overcome by perfecting foreign priority.
11. Applicant's arguments with respect to the Loffler reference have been fully considered but they are not persuasive.

The Applicant argues:

"The claims of the present application recite the presence of 'one or more acryloyldimethyltaurate/vinylpyrrolidone copolymers.' The Office states that Loffler discloses these copolymers and relies on the disclosure of Aristoflex AVC in these references. However, Loffler describes Aristoflex AVC as an 'acrylamidopropylenesulfonic acid/vinylformamide copolymer.' See, e.g., paragraph [0077] of the '737 application. The copolymer disclosed in Loffler is

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different from the claimed copolymer in that it includes the use of vinylformamide monomer as opposed to vinylpyrrolidone monomer as recited in the present claims. Furthermore, the acrylamidopropylenesulfonic acid monomer disclosed in Loffler appears to be different than the acryloyldimethyltaurate monomer used in the claimed copolymer. Thus, Loffler does not disclose the claimed copolymer and the present claims are not anticipated by Loffler under 35 U.S.C. § 102(e)." See p. 7 of the reply.

In response, on p. 3 of the instant specification, Applicant describes the claimed polymer as containing the species filed in Chemical Abstracts under the registry numbers 58374-69-9, 13162-05-5 and 88-12-0 and available under the trade name ARISTOFLEX® AVC from Clariant. The search of the Chemical Abstracts revealed that the registry number 58374-69-9 corresponds to 1-Propanesulfonic acid, 2-methyl-2-[(1-oxo-2-propenyl)amino]-, monoammonium salt; the registry number 13162-05-5 corresponds to N-vinylformamide; and the registry number 88-12-0 corresponds to 1-vinyl-2-pyrrolidone. The results of the search are reproduced below for the Applicant's convenience. See Appendix A. Thus, the claimed polymer contains vinylformamide fragment. Further, the polymer used by Loffler has the same trade name as the polymer used in the instant invention, i.e. ARISTOFLEX® AVC. The description of the product sold under this trade name by Clariant corresponds to the polymer claimed herein. See Appendix B. Therefore, it is reasonable to conclude that the polymer used in the Loffler reference is the same polymer as used in the instant invention.

Conclusion

12. **THIS ACTION IS MADE FINAL.** Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of this final action.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Marina Lamm whose telephone number is (571) 272-0618. The examiner can normally be reached on Mon-Fri from 11am to 5pm.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Gary Kunz, can be reached at (571) 272-0887.

The fax phone number for the organization where this application or proceeding is assigned is (571) 273-8300.

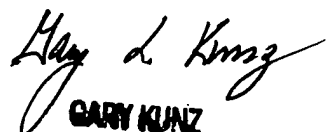
Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you

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have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).


GARY KUNZ
SUPERVISORY PATENT EXAMINER
TECHNOLOGY CENTER 1600

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3/31/05

